

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

Hobby Distillers Association, Rick Morris,  
Thomas O. Cowdrey III, Scott McNutt,  
John Prince III

Plaintiffs,

v.

Alcohol and Tobacco Tax and Trade  
Bureau, a bureau of the U.S. Department  
of the Treasury; Department of Justice

Defendants.

Case No. 4:23-cv-1221-P

**Notice of Availability of Non-Documentary Evidence**

Plaintiffs enter this Notice to ensure that the Court and Defendants are aware that a portion of Plaintiff's previously filed pleading (that is, Reply in Support of Plaintiff's Motion for Preliminary Injunction, Appendix, page 3) is available non-documentary material. In accordance with Local Rule 7.1(i)(3), an audio file consisting of the relevant material has been physically filed with the clerk's office. That audio file is a recording in mp3 format of a November 27, 2023 conversation between Plaintiffs' counsel and an officer of the Alcohol and Tobacco Tax and Trade Bureau. This November 27, 2023 conversation occurred before the filing of this lawsuit. The conversation is referenced in ¶ 24 of the complaint and on page 2 of the Reply in Support of Plaintiff's Motion for Preliminary Injunction. A courtesy copy of this file will be sent to opposing counsel and to this Court's chambers. So that members of the public who may not have physical access to the clerk's office are able to access the recording, the following is an

unofficial transcript of the conversation referenced above (again, the official evidentiary recording has been filed with the clerk's office):

TTB Officer: Thanks for calling the Alcohol Tobacco Tax and Trade Bureau. My name is Dennis. How may I help you?

Devin Watkins: Hi. My name is Devin Watkins. I am an attorney representing five clients. My clients are interested in getting a permit to distill alcohol at home.

TTB Officer: Okay.

Devin Watkins: Is that something that TTB would consider?

TTB Officer: They would consider a distillery permit application, but not at a home. Not in a residence. It's illegal to distill spirits at a residence.

Devin Watkins: I understand. So a permit request for distilling at home would not be something that TTB would consider?

TTB Officer: They would not. It's against the law.

Devin Watkins: I understand. Do you allow alcohol to be distilled for fuel purposes at home?

TTB Officer: Eeehh, well, is it a residential area?

Devin Watkins: I believe some of these are residential, some of them are rural.

TTB Officer: I believe, like, an alcohol fuel plant permit can be issued, but it has to be – I want to say it has to be in a rural area. It can't be, like, in a residential area.

Devin Watkins: Okay. Thank you. Is there any other business?

Dan Greenberg: Sorry, I'm co-counsel here. We're just trying to look at our options. So, just to summarize: you guys might consider a permit for the manufacture of fuel alcohol, but you won't consider a permit for the manufacture of beverage alcohol. Is that right?

TTB Officer Dennis: Correct.

Dan Greenberg: Hey, thank you very much for your time.

TTB Officer Dennis: All right, have a good day.

Dated: March 29, 2024

Respectfully submitted.

/s/ Devin Watkins

Devin Watkins (D.C. Bar # 155179)

Dan Greenberg (D.C. Bar # 9008067)

COMPETITIVE ENTERPRISE INSTITUTE

1310 L St. NW, 7th Floor

Washington, D.C. 20005  
(202) 331-1010  
Devin.Watkins@cei.org  
Dan.Greenberg@cei.org

**GRIFFITH BARBEE PLLC**

Casey Griffith (Texas Bar No. 24036687)  
Casey.Griffith@griffithbarbee.com  
Nicholas Kliewer (Texas Bar No. 24083315)  
Nick.Kliewer@griffithbarbee.com  
One Arts Plaza  
1722 Routh St., Ste. 710  
Dallas, Texas 75201  
(214) 446-6020| main  
(214) 446-6021| fax

*Counsel for Plaintiffs*